IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2601 of 2007()

CP.46/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IDUKKI

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PETITIONER: ACCUSED

VARGHESE @ KUTTICHAN, S/O JOSEPH,
AGED 42 YEARS, RESIDING AT KIZHAKKEL HOUSE,
PERUMKALA KARA, THADIYAMPADU P.O.,
IDUKKI VILLAGE.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
(CRIME NO.153 OF 2007 OF IDUKKI POLICE STATION)

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2601 of 2007

Dated this the 16th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 8 of the Kerala Abkari Act. The crime was registered. Investigation was conducted. Final report has been filed. Cognizance has already been taken. Committal proceedings have already been registered before the learned Magistrate. The petitioner has received summons to appear before the learned Magistrate on 18.08.07.

2. According to the petitioner, he is absolutely innocent. He is not responsible for the police not wanting him to arrest in the course of investigation. The petitioner is willing to appear before the learned Magistrate as directed in the summons. But the petitioner apprehends that the learned Magistrate when he appears may not consider his application for bail on merits, in accordance with law and expeditiously. In these circumstances, he prays that appropriate directions may be issued under Section 482 Cr.P.C.

3. The petitioner is directed to appear before the court on the basis of summons issued. I must assume that the learned Magistrate has exercised the discretion under Section 204 Cr.P.C in an informed manner and has chosen only to issue the summons. This Court in

Sukumari v. State of Kerala [2001(1) K.L.T 22] adverted to this aspect to the matter. I have no reason to assume that the learned Magistrate would not consider his application for bail to be filed by the petitioner when he appears on summons on 18.08.07 or any later date on merits, in accordance with law and expeditiously.

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-